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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,071	02/02/2000	Linda I. Hoffberg-Borghesani	LIH-14	7065
10037 7590 01/19/2007 MILDE & HOFFBERG, LLP 10 BANK STREET SUITE 460 WHITE PLAINS, NY 10606			EXAMINER SALCE, JASON P	
			ART UNIT 2623	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/497,071

Applicant(s)

HOFFBERG-BORGHESE ET AL.

Examiner

Jason P. Salce

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 155-193 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 155-193 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Applicant Arguments/Remarks Made in an Amendment, filed 08/09/2006, with respect to claims 187 (previously rejected under 35 U.S.C. 112) and claims 155-156 and 186 (previously rejected under 35 U.S.C. 102) have been fully considered and are persuasive. The rejection of claims 186-187 and 155-156 has been withdrawn.

However, the examiner has discovered a reference prior to the 12/23/1991 priority date (Young) and a new grounds of rejection on the claims is provided below.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 155-156 and 160-161 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Vogel (U.S. Patent No. 5,253,066).

Referring to claim 155, Vogel discloses storing data describing available media (see Column 3, Lines 49-55 for receiving periodic program schedule data which contains future and current program data and Column 3, Lines 67-68) and storing data representing characteristics of media previously selected by a user (see Column 3, Lines 59-66 for receiving real-time data that identifies programs currently being broadcast, wherein the real-time data includes different characteristics and further note that this data is transmitted after a channel change, therefore representing characteristic of media **previously selected by a user**), wherein said data representing characteristics are not input by the user (see again Column 3, Lines 59-66 for the real-time data (characteristics of media previously selected by a user) being received by the user's receiving device and therefore not input by the user).

Vogel also discloses performing a search of said available media for a correspondence to data representing said characteristics of media previously selected by said user (see Column 5, Lines 13-20 for performing a search by the user initiating display of the program menu which displays the time of broadcast, title and censorship classification, all of which are part of the real time data (see Column 3, Lines 59-66), therefore initiation of the program menu clearly allows a user to perform a search of said available media for a correspondence to data representing said characteristics of media previously selected by the user).

Vogel also discloses notifying said user of available media having characteristics corresponding to characteristics of previously selected media (see again Column 5,

Lines 13-20 and Figure 3 for notifying the user (by displaying the program menu) which contains a classification for each program).

Vogel also discloses that said media comprises a media program (see Column 3, Lines 37-39 for the media comprising television programs).

Referring to claim 156, Vogel discloses that said media comprises television programs (see Figure 3 for the EPG containing television programs) and said data describing available media comprises a channel guide list (see Figure 3 for the EPG providing a channel guide list of television programs).

Referring to claim 160, Vogel discloses that the data representing said characteristics of media previously selected by said user comprises media theme information (see Column 4, Lines 40-50 for classification data C, G, A and R, which is theme information).

Referring to claim 161, Vogel discloses displaying a list of available programs (see Figure 3), and receiving an input for recording a selected one of the available programs (see Column 5, Lines 24-26).

Referring to claim 162, Vogel discloses a controller for controlling delivery of a media program to a user (see remote control 112 in Figure 1).

Vogel also discloses a processor for determining a correspondence between data representing characteristics of media within a set of available media programs with data representing characteristics of media previously presented to the user (see Column 6, Lines 22-66 and see the rejection of claim 155), wherein said data representing characteristics are not input by the user (see the rejection of claim 155), and producing a signal dependent on said correspondence (see again Column 6, Lines 22-66 for sending a variety of control signals to the VCR based on the correspondence of the periodic and real-time program schedule data and further note Column 4, Lines 40-67 for additional examples of using the correspondence to control the television receiver or the VCR).

Referring to claim 163, Vogel discloses that said signal controls a recording of a media program (see again Column 4, Lines 4-68 for controlling the recording of a program based on the classification information).

Referring to claim 164, Vogel discloses that said signal produces a list of choices for a user through a human user interface (see Figure 4 for selecting specific classifications by the user and Figure 3 for displaying the classifications along with the corresponding user as a list of choices).

Referring to claim 165, Vogel discloses a user interaction with said system serves as an input to an adaptive algorithm of said processor for determining said

correspondence (see Column 4, Lines 40-67 and Figure 4 for selecting specific classification settings and using these setting to determine the correspondence between periodic data and real-time data and perform a an event, such as alarming the user that program is available for viewing (further note Column 6, Lines 22-66)).

Referring to claim 174, Vogel discloses receiving media programming information as the data representing characteristics of media (see Column 3, Lines 59-66).

Referring to claim 175, Vogel discloses automatically generating data representing characteristics of media (see Column 3, Lines 37-45 and 59-66 for the headend generating/transmitting the data representing characteristics of media).

Referring to claim 176, Vogel discloses that the data representing characteristics comprises a description of media (see Column 3, Lines 59-62).

Referring to claim 177, see the rejection of claim 155.

Referring to claim 178, Vogel discloses that the identification of at least one member of the set of available media programs having characteristics corresponding to characteristics of previously selected media by that user is presented as a selectable object in a graphic user interface (see Figure 3).

Referring to claim 179, see the rejection of claim 155.

Referring to claims 180-181, see the rejection of claim 178.

Referring to claim 182, see the rejection of claim 155.

Referring to claim 183, see the rejection of claims 155 and 162.

Referring to claims 184-185, see the rejection of claim 156.

Referring to claim 186, Vogel discloses that the plurality of characteristics of the available media are derived from an EPG (see Column 3, Lines 37-68).

Referring to claim 187, Vogel discloses that said output comprises a displayed list of hypertext entries representing available media, further comprising receiving a selection of one of the hypertext entries (see Column 5, Lines 51-59 for each of the program listings having an option to select the "?" key with allows the program listing to become a hypertext entry that references an additional page of information about the particular television program selected from the guide page of Figure 3).

Referring to claims 188-189, see the rejection of claims 160-161, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 157-159 and 166 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (U.S. Patent No. 5,253,066) in view of Young (U.S. Patent No. 4,706,121).

Referring to claim 157, Vogel discloses all of the limitations in claim 155, as well as that the notifying step includes the step of producing a display including a list of the available media (see Figures 3-4), and although Vogel teaches classification information corresponding to each program, Vogel is silent for the list meeting a predetermined correspondence criteria on a display screen for viewing by the user (i.e. does not teach using the classification information to organize the program guide).

Young also discloses classification information in the form of theme data (see Column 12, Line 45 through Column 13, Line 31) and that a program guide can be displayed that only corresponds to the themes selected by the user (see Column 12, Lines 13-14).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the program guide listings of Vogel, using the theme mode, as taught by Young, so that programs of special interest are not missed through forgetfulness and eliminating most of the program listings that are of no value to the viewer (see Column 5, Lines 20-32 of Young).

Claim 158 corresponds to claim 157, where Young discloses altering the produced display by a user using a data entry device (see Figure 5 and Column 10, Lines 6-8).

Claim 159 corresponds to claim 158, where Vogel discloses the step of selecting one of the available media items displayed on the list of available media (see Column 5, Lines 24-26 for selecting a program for recording).

Referring to claim 166, Vogel discloses all of the limitations in claim 155, but fails to teach that at least one memory stores information regarding at least two humans, wherein said signal is dependent on a defined set of humans.

Young teaches that at least one memory stores information regarding at least two humans, wherein said signal is dependent on a defined set of humans (see Column 10, Line 65 through Column 11, Line 3 for assigning different setting for up to 4 users).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the program guide listings of Vogel, using the multiple user modes, as taught by Young, so that programs of special interest are not missed through forgetfulness and eliminating most of the program listings that are of no value to the viewer (see Column 5, Lines 20-32 of Young).

4. Claims 167 and 190-191 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (U.S. Patent No. 5,253,066) in view of Campbell et al. (U.S. Patent No. 4,536,791).

Referring to claim 167, Vogel discloses all of the limitations in claim 162, but fails to teach that the presentation of media is restricted in dependence on a financial transaction.

Campbell discloses that a pay-per-view system for selecting media programs requires additional billing and upon approval by the user's key entry, which allows a user to be billed a pay per view program is allowed to select the program (see Column 17, Lines 53-64).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the program selection system, as taught by Vogel, using the pay per view approval system, as taught by Campbell, for the purpose of allowing the system operator to control subscription television services on a per channel, per service tier and per event basis (see Column 3, Lines 2-4 of Campbell).

Referring to claims 190-191, see the rejection of claim 167.

5. Claims 168-173 and 192-193 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (U.S. Patent No. 5,253,066) in view of Wachob (U.S. Patent No. 5,155,591).

Referring to claim 168, Vogel discloses a user interface for receiving a selection of a media item from a user (see Figure 3 and Column 5, Lines 13-38) and for delivering a response to the selection (see Column 5, Lines 24-29 for recording a program in response to the selection).

Vogel also discloses a processor for searching media items available for selection (see again Figure 3) and for presenting a recommendation of at least one available media item to the user, based on a correspondence of said selection and characteristics of available media items input independently of the user (see Column 4, Lines 40-68 for providing a recording or alert based on the classification of the programs in the real-time and periodic program guide data received (further note Column 6, Lines 22-66 for a more detailed example of the recording process)).

Vogel fails to disclose an accounting database for recording commercial transaction data relating to selections made by the user.

Wachob discloses an accounting database for recording commercial transaction data relating to selections made by the user (see Column 10, Lines 27-35).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television delivery system, as taught by Vogel, using the accounting database, as taught by Wachob, for the purpose of providing accurate commercial tracking and advertiser billing (see Column 10, Lines 27-28 of Wachob).

Claim 169 corresponds to claim 168, where Vogel discloses that said media items comprise television programs and said stored characteristics comprise a channel guide list (see the rejection of claim 156), and television program-descriptive text accompanies said channel guide list (see Column 5, Lines 51-57 for using the "?" key to provide a text description of a program in the channel guide list).

Claim 170 corresponds to claim 168, where Vogel discloses that said recommendation presented by said processor produces a display including a list of the available media meeting a predetermined correspondence criteria on a display screen for viewing by the user (see the rejection of claim 157).

Claim 171 corresponds to claim 168, where Vogel discloses that said characteristics comprise an identification of a program type (see Column 5, Lines 40-50 for the characteristics being a classification field which can represent one of many different program types).

Claim 172 corresponds to claim 168, where Vogel discloses that said processor controls a recording of said media item (see Column 4, Lines 55-65 and Column 6, Lines 22-66).

Claim 173 corresponds to claim 168, where Wachob discloses that said database stores a history of selections made by a plurality of users (see again Column 10, Lines 27-35).

Referring to claim 192, Vogel discloses all of the limitations in claim 183, but fails to teach delivering an advertisement to the user in dependence on characteristics of media previously selected by the user.

Wachob discloses delivering an advertisement to the user in dependence on characteristics of media previously selected by the user (see Figure 4 and Column 7, Line 13 through Column 8, Line 66).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television delivery system, as taught by Vogel, using the targeted commercial advertisement system, as taught by Wachob, for the purpose of more efficiently utilizing advertising budgets (see Column 1, Lines 29-30 of Wachob).

Claim 193 corresponds to claim 192, where Wachob further discloses accounting for delivery of an advertisement to the user (see Column 10, Lines 27-35).

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
Art Unit 2623

January 17, 2007

JASON SALCE
PRIMARY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Jason Salce', is written over the printed name and title. A long, sweeping horizontal line extends from the end of the signature across the bottom right of the page.